

Commodity Credit Corporation, USDA

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this section. If the producer-member who delivered the commodity does not retain the right to share in the proceeds from the marketing of the commodity as provided in part 1425 of this chapter, commodities delivered to an approved CMA shall not be eligible to be pledged as collateral for a marketing assistance loan or be taken into consideration when a loan deficiency payment is made.

(g) A producer will lose beneficial interest in a commodity if the producer receives any payment from any person under any contractual arrangement with respect to a commodity if the person who is making the payment, or any person otherwise associated with the person making the payment, will at any time have title to the commodity or control of the commodity prior to or after harvest, shearing, or slaughter unless:

(1) Such payment is authorized in accordance with part 1425 of this chapter; or

(2) The payment is made as consideration for an option to purchase the commodity and such option contains the following language:

Notwithstanding any other provision of this option to purchase or any other contract, title and control of the commodity and beneficial interest in the commodity as specified in 7 CFR 1421.6 shall remain with the producer until the buyer exercises this option to purchase the commodity. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of:

(1) The maturity of any Commodity Credit Corporation (CCC) loan that is secured by such commodity;

(2) The date CCC claims title to such commodity; or

(3) Such other date as provided in this option.

(h) Inclusion in a contract of one or more of the following types of provisions will not result in the loss of beneficial interest in a commodity:

(1) A provision that allows the producer to select the sales price of the commodity at a time the contract is entered into or at a later date, for example, a contract normally referred to as a deferred-price, forward or price

later contract. The following conditions apply:

(i) Producers under a deferred-price, forward, or price later contract will lose beneficial interest in the commodity the earlier of receipt of any payment or once the commodity is applied in fulfillment of the delivery requirements of such a contract.

(ii) Beneficial interest in the commodity is retained by the producer if the contract has no restrictive or contradictory clauses within the contract that may cause the producer to lose beneficial interest in the commodity.

(2) A provision between the producer and a warehouse authorized in accordance with §1421.103(c) for the storage of MAL collateral that provides the producer a period of time following the date of physical delivery of the commodity to elect whether the commodity is to be stored and receipted on behalf of the producer or is to be considered transferred to the warehouse if CCC determines such a provision is required.

(i) Commodities produced under a contract in which the title to the seed remains with the entity providing the seed to the producer, including contracts for the production of hybrid seed, genetically modified commodities, and other specialty seeds as approved in writing by CCC, are eligible to be pledged as collateral for a MAL or a LDP may be made with respect to such production if, at the time of the request for such a MAL or LDP, the producer has not:

(1) Received a payment under the contract; or

(2) Delivered the commodity to another person.

[71 FR 32422, June 2, 2006, as amended at 71 FR 51426, Aug. 30, 2006; 71 FR 60413, Oct. 13, 2006; 74 FR 15651, Apr. 7, 2009; 80 FR 121, Jan. 2, 2015]

§ 1421.7 Requesting MALs and LDPs.

(a) A producer may apply for a MAL or LDP at any FSA county office. The receiving FSA county office will forward the MAL or LDP request to the administrative county office, as specified in part 718 of this title, that is responsible for administering programs for the farm on which the commodity was produced. The administrative

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county office will process and approve the MAL or LDP.

(b) A MAL or LDP may be requested in person, by mail, or by electronic format designated by CCC. Forms prescribed by CCC may be obtained from the FSA Web site.

(c) To receive a MAL or LDP for an eligible commodity, a producer must execute a note and security agreement or LDP application on or before the applicable final loan availability date, as follows:

(1) March 31 of the year following the year in which the following crops are normally harvested: barley, canola, flaxseed, oats, rapeseed, crambe, sesame seed, and wheat.

(2) May 31 of the year following the year in which the following crops are normally harvested: corn, grain sorghum, mustard seed, rice, safflower, soybeans, sunflower seed, dry peas, lentils, and chickpeas.

(3) January 31 of the year following the year in which peanuts are normally harvested or wool and mohair are normally sheared.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15651, Apr. 7, 2009; 80 FR 121, Jan. 2, 2015]

§ 1421.8 Eligible quantity.

(a) With respect to MALs and LDPs for:

(1) Farm-stored commodities, all determinations of weight and quality, except as otherwise agreed to or required by CCC, will be determined at the time of delivery of the commodity to CCC or at the time the LDP application is filed for measured requests, if applicable, or selected for spot-check for certified requests.

(2) Warehouse-stored commodities, all determinations of grade, weight and quality, except as otherwise agreed to or required by CCC, will be determined at the time the MAL is forfeited to CCC.

(b)(1) A producer may, before the final MAL availability date for obtaining a MAL for a commodity, repledge as collateral for securing a MAL any commodity that had been previously pledged as collateral for a MAL, except with respect to:

(i) Commodities that have been re-deemed at the prevailing world market price for rice, or the alternative repay-

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ment rate for all other commodities, as determined by CCC.

(ii) Commodities on which a LDP has been received.

(2) The commodity repledged as security for the subsequent MAL will have the same maturity date, under § 1421.101 as the original MAL.

(c)(1) The MAL documents will not be presented for disbursement unless the commodity subject to the note and security agreement is an eligible harvested commodity, is in existence, and is in authorized farm or warehouse storage, as determined by CCC. If the commodity was not either an eligible commodity, in existence, or in authorized storage at the time of disbursement, the total amount disbursed under the MAL and charges plus interest must be refunded promptly by the producer.

(2) CCC will limit the total quantity for MAL or LDP disbursement to 100 percent of the quantity of such MAL or LDP application. A producer may obtain a separate MAL or LDP before the final loan availability date for the commodity for quantities in excess of 100 percent of such quantity if such quantities are otherwise eligible.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15651, Apr. 7, 2009; 80 FR 121, 129, Jan. 2, 2015]

§ 1421.9 Basic loan rates.

(a) Basic MAL rates for a commodity may be established on a National, State, regional, county basis or other basis, will be at rates that comply with applicable statutes, and may be adjusted by CCC to reflect grade, type, quality, location and other factors applicable to the commodity and as otherwise provided in this section.

(b) The basic MAL rates for wheat, corn, barley, oats, grain sorghum, rice, peanuts, soybean, canola, flaxseed, mustard seed, rapeseed, safflower, sunflower seed, dry peas, lentils, chickpeas, crambe, sesame seed, wool, mohair and other crops designated by CCC will be determined by CCC and made available to State and county offices.

(c) Subject to adjustment as specified in paragraph (f) of this section, in case of forfeiture, for all commodities except rice and peanuts, warehouse-stored MALs will be disbursed at levels